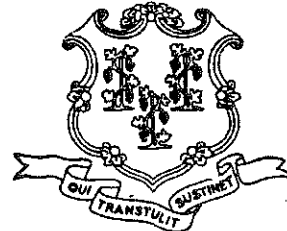
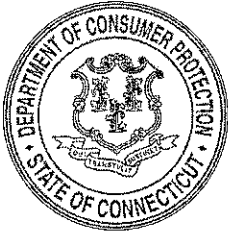


Department of Consumer Protection



**Testimony of William M. Rubenstein,
Commissioner of Consumer Protection**

**General Law Committee Public Hearing
March 11, 2014**

**S.B. 378 "AN ACT CONCERNING THE COLLECTION AND DISPOSAL OF
UNWANTED PHARMACEUTICALS"**

**S.B. 412 "AN ACT CONCERNING THE ENFORCEMENT OF CERTAIN
OCCUPATIONAL LICENSING STATUTES"**

**H.B. 5333 "AN ACT CONCERNING THE RETURN OF OUTDATED DRUGS FROM
PHARMACIES TO WHOLESALERS, MANUFACTURERS AND DISTRIBUTORS"**

**H.B. 5474 "AN ACT EXEMPTING VETERINARIANS FROM THE ELECTRONIC
PRESCRIPTION DRUG MONITORING PROGRAM"**

Sen. Doyle, Rep. Baram, Sen. Witkos, Rep. Carter and Honorable members of the General Law Committee. I am William Rubenstein, Commissioner of Consumer Protection. Thank you for the opportunity to provide written comments regarding four bills that are on your committee's agenda today.

S.B 378 "AN ACT CONCERNING THE COLLECTION AND DISPOSAL OF UNWANTED PHARMACEUTICALS"

H.B. 5333 "AN ACT CONCERNING THE RETURN OF OUTDATED DRUGS FROM PHARMACIES TO WHOLESALERS, MANUFACTURERS AND DISTRIBUTORS"

SB 378 would require the development and implementation of a program for the collection of unwanted pharmaceuticals and for pharmacies to transport those pharmaceuticals to a biomedical waste treatment facility for disposal. HB 5333 would require DCP to enforce a new drug take-back program that would require wholesalers, manufacturers or distributors of drugs to accept drugs back from pharmacies. The Department notes that both proposals would be costly and are highly burdensome. We would suggest that instead of creating new programs and mandates, the legislature allow time for the growth of DCP's Community Drug Drop Box program. This voluntary program, initiated approximately 5 years ago was based on a growing awareness that people aren't sure of how to properly dispose of unwanted medications---both over-the-counter and prescription medications. DCP began discussing this concern with municipal leaders and working in tandem, a voluntary program has emerged where municipal police departments across the state are installing medication drop-boxes in the public area of their police stations where residents can take and deposit their unwanted and expired medications 24 hours per day, at no charge. Being inside a police station, these boxes which become filled with medications are completely safe and secure and ensure that no theft will occur from them. The police will periodically take the contents from the boxes and transport the waste directly to their municipality's trash facility where the drugs are incinerated along with normal trash.

DCP is the state agency that oversees, regulates and determines the security, record keeping and proper destruction of controlled substances in locations throughout the state. As such, it is appropriate that any legislative proposal include DCP as the primary agency in enhancing this current program. The department is pleased with the number of towns that

currently have placed a drop box in their police station: currently the number is 35, with more on the way. The only costs to the town are for the purchase of the drop box (between \$500-\$1,000) and the minimal allocation of police resources needed to transport the contents to the incinerator.

This program has met with wide-ranging support including the Connecticut Prevention Network, Regional Action Councils, and other drug abuse prevention groups. This program provides benefits to our citizens by giving them a way to dispose of unwanted medications safely and without charge, and in an environmentally safe way that gives them an easy alternative to flushing the meds down the toilet. Towns benefit by seeing fewer medications being stolen from households and abused, and they have developed a partnership with DCP's Drug Control Division. And DCP has been able to accomplish this without an appropriation or significant fiscal or resource impact.

The Department believes that allowing more time for the expansion of this voluntary program is preferable to the new programs and mandates that these two bills would require.

S.B. 412 "AN ACT CONCERNING THE ENFORCEMENT OF CERTAIN OCCUPATIONAL LICENSING STATUTES"

This bill, in Section 2, amends the "Penalties" section of chapter 393 to criminalize negligence by contractors. Under current law, "wilful" violations of the licensing requirements of this chapter may be prosecuted criminally. The Department is not aware of concerns that recommend changing the current threshold, but questions whether it is wise to treat acts of negligence equal to wilful violations. Also in Section 2, the bill proposes to give the Commissioner and the appropriate examining board the authority to issue "cease work orders." The precise language states that these orders are triggered "when any person is found in violation

of the provisions of this section,” and mandates the board or Commissioner to issue such an order within 48 hours after “the finding” to do so. It is unclear what the term “found in violation” means relative to an investigation taken up by the Commissioner or the board. What determinations must be made before a violation is “found”? What are the standards for such determination? Clear and appropriate standards are important, since mandatorily and summarily issuing a “cease work order” raises due process concerns. Finally, the department is concerned that the mandatory nature of this provision removes appropriate administrative discretion as to the proper range of action necessary to address suspected violations of differing degrees. As drafted we find this section unworkable, and without sufficient statutory standards to implement such a drastic step as issuing a cease work order.

The Department has concerns with Section 3 of the bill. Under current law the Commissioner is authorized to enter into a settlement agreement with a respondent. The language proposes that in a matter in which a board declines to accept a settlement proposal, the Commissioner is required to pursue and prosecute a formal administrative hearing before the board. Current law provides the Commissioner appropriate prosecutorial discretion to determine whether formal procedures should be pursued. Removing such discretion is contrary to the Department’s policy of judiciously determining when a matter ought to be pursued by acting against a licensee and when to work with a business or licensee that is working hard and in good faith to correct any problems. This change would be unfair to license holders, impose undue costs and resource burdens on the State and the Department and greatly complicate good enforcement practices.

Finally, Section 4 of the bill would require boards and commissions to approve any new or amended regulation promulgated by the Department before the Department may propose such regulations to the General Assembly’s Regulation Review Committee. Requiring that the board or commission consent before a regulation may be proposed to the Regulation Review Committee

creates potential to delay or prevent the adoption of regulations about which reasonable minds might differ. Under present law, boards and commissions are afforded a “reasonable opportunity to review” such proposed regulations. The opportunity to review and comment assures that there is a public record as to the position of any board or commission so that both the Department and the Regulation Review Committee may consider it. The Department is unsure why this change is requested, and believes it may lead to unnecessary and lengthy delays in adopting regulations.

The Department understands the interest in the statutes and procedures that govern enforcement of occupational license-holders under DCP’s jurisdiction. It is appropriate to review these statutes from time-to-time, and we welcome the comments and suggestions from all stakeholders. We have, however, noted the concerns we have with the current proposed bill.

H.B. 5474 “AN ACT EXEMPTING VETERINARIANS FROM THE ELECTRONIC PRESCRIPTION DRUG MONITORING PROGRAM”

This bill proposes to exempt veterinarians from the current law of reporting the dispensing of controlled substances into the Connecticut Prescription Drug Monitoring Program. The Department of Consumer Protection opposes this bill. The prescription drug monitoring program is an internet-based computer application system designed to help prescribers of controlled systems provide better patient care and to help reduce the incidences of substance misuse, abuse and diversion. The program requires DCP-registered “Controlled Substance Practitioners” to report the dispensing of all Schedule II-V controlled substances. It also allows those practitioners to review the history of dispensing to check for patterns of misuse, diversion or abuse. As part of a nationwide movement to reduce the epidemic of abuse of controlled substances, the Department and the legislature strengthened the Prescription Drug Monitoring program statutes in 2013. This bill would have the opposite effect, by removing certain dispensers of controlled substances from reporting requirements which may open the door for

diversion and abuse. Presently, the Department's Drug Control division is working with veterinarians throughout Connecticut to get them into compliance with the provisions of this program. We are finding that compliance is not difficult to achieve and the number of veterinarians in compliance is increasing rapidly. It is important to remember that reporting requirements are ONLY when controlled substances are dispensed from the veterinarian's office. Therefore, for those vets that simply write prescriptions for dispensing elsewhere there are no new burdens placed on them; additionally, the dispensing of non-controlled substances, such as most antibiotics, creams, heartworm meds, etc., are also unaffected by this program. We look forward to continuing to work with veterinarians that dispense controlled substances to have them use the Prescription Drug Monitoring program and are therefore strongly opposed to any changes to the current law.

Thank you for the opportunity to provide comments on these four bills. Please feel free to contact me, or the Department's Legislative Program Manager, Gary Berner if you have any questions about my statement on these bills.